

I hereby certify that this correspondence was filed with the Commissioner for Patents of the United States Patent and Trademark Office on the date shown below by hand delivery to Examiner S. Hong.

Dated: December 10,
November 12, 2002

Signature: 

Jeffrey S. Dickey

Docket No.: TOBINB 3.0-001 CIP
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
William J. Tobin

Application No.: 09/271,675

Filed: March 18, 1999

For: METHOD AND SYSTEM FOR
CUSTOMIZING MARKETING SERVICES
ON NETWORK COMMUNICATING WITH
HYPERTEXT TAGGING CONVENTIONS

Group Art Unit: 2176

Examiner: S. Hong

Date: November 11, 2002

Commissioner for Patents
Washington, DC 20231

DECLARATION OF WILLIAM TOBIN PURSUANT TO 37 C.F.R. § 1.132

I, William J. Tobin, declare that:

1. I am the sole inventor of the invention defined by the claims pending in the above-identified application.

2. I am the chairman and founder of Internet Commerce Consultants, LLC ("ICC"), which provides consulting services to companies involved in e-commerce on the Internet and assists them with developing their own web sites including building co-branded platforms, business models and programs for marketing partner relationships.

3. In 1989, I co-founded PC Flowers, Inc. and began purveying floral and balloon products over the Prodigy network, a PC-based on-line network developed and launched by IBM and Sears.

4. In 1992, I was elected Entrepreneur of the Year by Inc. Magazine in recognition of my work as an e-commerce pioneer with PC Flowers, Inc.

5. In 1994, I founded PC Flowers & Gifts ("PCF&G") and expanded the traditional event-driven floral and balloon business to include other event-driven gift products, such as gift baskets, gourmet foods, and the like. PCF&G initially launched its products and services on the Prodigy Network.

6. At about the time I launched the PCF&G web site, the customary way for companies desiring to conduct e-commerce business, acquire repeat customers and achieve broad exposure and presence on Prodigy, and later the Internet, was through paid banner advertising. These companies had to enlist the aid of traditional portals, such as Prodigy, Yahoo, Excite, CompuServe or AOL, and make advertising deals, whereby a given portal site would display an advertising banner at various locations on their web sites.

7. This marketing and advertising scheme was not economically feasible for many businesses. The portals often required a sizable amount of money for advertising space, especially when the portals reached a critical mass of users. Also, the portal would not always want to display a company's banner on the portal's home page, and would sometimes place the banner on the second, third or latter pages, thus diminishing the value of the banner ad altogether. The portals tended not to guarantee any level of success, thus placing the financial risk of the advertising's effectiveness completely on the advertiser.

8. In response to this deficiency in the e-commerce paradigm of marketing and advertising, I conceived of the invention claimed in the above-identified application.

9. In 1996, I launched a renowned marketing and advertising system and method based on my invention. This web site generated customized web pages that showed both the brand of the co-branding partner's web site and the PCF&G web site devoted to the sale of flowers and other products. PCF&G kept track of the customer's use of the PCF&G co-branded web site in order to report the results back to the co-branding partner. This concept became the foundation of the marketing and advertising service provided by PCF&G.

10. This system and method benefited the partner because, among other things, it enabled participating partners' web sites to establish an electronic commerce paradigm as part of their site by displaying their brand to the user even when the user viewed PCF&G's content on the site maintained and operated by PCF&G. It also gave the partner this e-commerce presence without the necessity of building or maintaining an e-commerce platform. This was particularly advantageous to the partners because of the then-current difficulties associated with handling secure credit card transactions.

11. It benefited companies like PCF&G because, by displaying the brand of both PCF&G and the partner, it capitalized on the consumer's existing familiarity with the

brand of one Internet web site (the partner) to sell the products or services associated with another (PCF&G).

12. Thus, by displaying the brands of both companies, the invention benefits both partners and companies such as PCF&G alike by taking advantage of the consumer's familiarity with the partner's position in the marketplace and the consumer's trust in the partner's brand name.

13. Moreover, the invention allowed the equitable distribution of the financial risks and incentives of electronic advertising. By tracking the sales of PCF&G's products and services and reporting the results back to the partner, the partner was made aware of the value — or lack thereof — of its advertising services. If the partner was provided with sales commissions in exchange for the partner advertising PCF&G flower and gift services, the partner had the additional and strong incentive to keep PCF&G's banner prominently located on the home page and in key locations throughout its web site.

14. My invention accordingly addressed the disadvantages of the then-current advertising model where the more affluent competitors, such as 1-800-FLOWERS or the like, could pay millions of upfront dollars to be the most prominent or exclusive merchant for goods in their category on the most important web sites. With my invention, the only substantial cost was the development of the co-branded web site (which was already scalable to easily add other brands of new partners) and commissions (or the like) on actual sales. Thus, my invention permitted small and mid-sized companies to compete with the large and well-funded companies in e-commerce, and reach the public via the web in an extremely cost-efficient manner.

15. In addition, because the web page and branding was generated in response to the user's request based on pre-stored brands, it allowed co-branding on a level so scalable that a relatively unlimited number of partners could be accommodated with relatively little increase in allocated resources.

16. Indeed, by 1999, PCF&G provided co-branded floral and gift services to over 1,000 co-branded sites, including NBC, CBS, AT&T, Citibank, BellSouth, Merrill Lynch, Yahoo and MindSpring (now owned by EarthLink). More partners were added thereafter. Exhibit A attached to this Declaration contains a list of 2,000 companies which were co-branding marketing partners with PCF&G.

17. The relationship between the success of PCF&G and my invention was memorialized years ago in PCF&G's May 10, 1999 Form S-1 filing with the Securities and Exchange Commission. (Exhibit C.) For example, the eight paragraph of page 4 of the Form S-1 notes that the web site reaches customers through "over 1,000 co-branded sites." The S-1 also listed material aspects upon which PCF&G depended, and one of those aspects was "[w]e depend on co-branding relationships for more than half of our revenue. Our business would be materially and adversely affected if we cannot maintain our co-branding relationships." *Id.* at 11 (eighth paragraph). In fact, the S-1 filing stated that PCF&G derived more than half of revenue from more than 1,000 websites of its co-branded partners. *Id.*

18. The commercial success and rapid marketplace embracement of the invention is also evidenced not only by the sheer number of partners, but also PCF&G's revenues and market share. PCF&G became the third largest purveyor of flowers on the Internet, behind only 1-800-Flowers and FTD, both of whom utilized the traditional methodology of advertising and had enormous advertising and operation budgets compared to PCF&G. By using my system, PCF&G established significant marketing and advertising presence by spending a comparatively small fraction of its revenues on advertising. Indeed, the S-1 filing noted that "many retailers rely heavily on costly agreements with Internet portal providers to promote their brands," *id.* at 34 (twelfth full paragraph). One of PCF&G's strategic responses was to use my co-branding technology "to continuously attract and acquire new customers without significant investments in advertising and marketing." *Id.* at 37 (first full paragraph). "Through our co-branding service, our co-branded partners can offer their site visitors a customized flower and gift service while maintaining their own brand identity." *Id.*

19. In the first three months on 1999 alone, PCF&G net sales already exceeded \$1 million dollars. It is my recollection that PCF&G was valued at more than \$100 million at the time of the S-1 filing.

20. As the above illustrates, my invention was very important to PCF&G's entire business and its success and shows the value of the license from me to PCF&G as described at page 41, last paragraph, of the S-1 Filing. Thus, this license further illustrates the commercial success of the underlying invention.

21. PCF&G's success in e-commerce due to this new paradigm did not go unnoticed. Numerous industry publications and associations named the company as one of

the most successful interactive service providers in the United States. For example, the company received the Editor's Choice Award, from *Looksmart*, Outstanding Website Award from *WebCrawler*, Seal of Excellence Award from *Web Select Team*, The Outstanding WebAward for 1998 from *The Web Marketing Association*, and Best in Gift Category and Best in Flower Category from *Lycos*.

22. My system was also licensed to others, including Fingerhut. At the time, Fingerhut was one of the largest catalog retail shopping companies in the world.

23. I do not recall ever viewing any other e-commerce company utilizing the features of my system until after I invented it. In fact, until I introduced my system, on-line retailers had long needed a means to more efficiently conduct transactions among portals, major websites and e-commerce merchants, other than paying advertising fees and upfront fees to place banner ads on portals such as Prodigy and AOL or Internet web sites, where all the risk success was on the shoulders of the e-commerce merchant and not the referring site. My invention met this need.

24. In fact, the commercial success of my invention is evidenced by the fact that many of today's most popular and successful on-line retailers on the Internet continue to use my invention. For example, as shown in Exhibit B, AOL uses the invention to provide "electronic wallet" services, whereby a web page is generated to show both the brand of the referring web site (such as Macy's and OfficeMax) and AOL's brand. The user, along with the information "electronic wallet" information he or her pre-stored at AOL, is then sent back to the referring web site.

25. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that any such willful false statements may jeopardize the validity of the present patent application or any patent issuing thereon.

Dated:

11/20/02William J. Tobin

William J. Tobin



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/271,675	03/18/1999	WILLIAM J. TOBIN	TOBIN-3CIP	4523

7590 10/07/2003
LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

HONG, STEPHEN S

ART UNIT	PAPER NUMBER
----------	--------------

2178

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/271,675

Applicant(s)

TOBIN, WILLIAM J.

Examiner

Stephen S. Hong

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/03.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 48-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 48-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 33.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the following communications: amendment and RCE filed on July 7, 2003.
2. In the amendment claims 57-66 are added. Accordingly, claims 48-66 are pending. Claims 48 and 57 are independent claims.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 48-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graber et al, US 5,812,769 A, in view of Nee, S., "Greetings for all seasons: Part two," *Sales & Marketing Management*, vol. 146 No. 10, pp. 139-152, 09/1994 and Coddington, "WhoWhere? announces Version 2.0 of internet directory assistance service", *Business Wire*; New York; April 30, 1996.

Per independent claim 48, A method of providing text, graphics or sounds via a network, the network having different first, second and third locations on the network, the method comprising:

storing first and second brand ("identity of the first WWW site"—col. 3, lines 40-43; co-marketer #1-#3, 122a-c—FIG. 1) such that the first identity is associated with a first entity operating the first location and the second identity is associated with a second entity operating the second location ("co-marketer symbol or code which can be recognized by OLS 140 whenever the user of user station 102 connects to OLS 140"—col. 5, lines 2-7) ;

storing page information including text, graphics or sounds relating to products or services and the brand of the entity providing the products or services (implicit in **CM1**, **CM2**, & **CM 3**, elements 504, 506, and 508—FIG. 5, and by the observation that in at least one embodiment, "*a destination web page is determined for the user, and a revised destination web page is formed by inserting a second code representative of the identity of the first WWW site into at least one selected web page link associated with the destination web page. The revised destination web page is then transmitted to the user*"—col. 3, lines 43-47).;

receiving a request from a user, via the network, for the page information associated with the third location (Thus, the redirected. cgi program accepts as arguments the current URL of the user {e.g., URL 514}, and a destination URL

representing the location to which the user desires to move {e.g., URL 518}"—col. 11, lines 24-30), the location of the third location being provided to the user by a referring location ("co-marketer" col. 5, lines 1-12), the referring location being the first or second location (*implicit*);

transmitting the page to the user ("home page at web site 128"—col. 9, line 63);
and

transmitting, to the first or second entity depending upon the referring location, information relating to the user's transaction or order for the products or services (" Each record **480** also contains a field **494** representing the number of users that were directed to OLS by the co-marketer during the previous month."—col. 9, lines 50-55).

Graber discloses each and every element of the claim except:
based on the referring location and after receiving the request from the user, generating a page displaying the first or second brand depending upon the referring location, the brand of the entity providing the products or services, and the page information. It implies that there is information regarding the referring partner, however, it is unclear whether it constitutes a brand ("***revised destination web page is formed by inserting a second code representative of the identity of the first WWW site into at least one selected web page link associated with the destination web page. The revised destination web page is then transmitted to the user***"—col. 3, lines 43-47).

However, it is clear that a customized web page is generated in an embodiment of Graber (**FIG. 3**, link string 310b).

Nee, on the other hand, discloses the notoriously well known method of customizing a catalogue for a corporate client (See page 2, rubric "customizing - not a custom design", and page 3, rubric "Gift certificates").

It would have been obvious to a Person Having Ordinary Skill In The Art, *i.e.*, *PHOSITA* at the time of the invention to customize the web site of Graber, for a corporate client, *e.g.*, by creating a custom catalogue with company logo as described by Nee, in order to provide a customized incentive program for “co-marketers” that were also business associates as described by Nee for instituting employee incentive programs and the like as suggested by the customized catalogues of Nee.

However, the prior of Graber and Nee does not appear to explicitly teach that the technology is used for “co-branding” and that the destination site is where the display of the “co-brands” (*i.e.*, both brands of the referrer and the destination merchant) is provided. Nevertheless, this feature is taught by the prior art article by Coddington. Coddington teaches that “the creators of the largest Internet directory of email addresses” (see Abstract), called “WhoWhere?” with which the “partner’s will provide co-branded web pages and share advertising revenues.” On page 2 of the print out copy, Coddington points out that WhoWhere? provides “hotlink to partners web sites” such as BigBook, American Business Information, and Quote.com, and then the “partner’s will provide co-branded Web pages.” Since Coddington explicitly points out that the hotlinks are to the partners sites (and not to its internal content), it is clear that the co-branded pages are created at the partner’s sites. Even if it were not the case, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have envisaged that the partner’s provided the co-branded web pages from the Coddington’s article. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have used the Graber and Nee’s co-marketing technology for the “co-branding” marketing scheme as taught by Coddington, since a person of ordinary skill would have appreciated that Coddington’s feature would generate additional revenue through the co-branded web pages.

Per dependent claim 49; Graber further discloses claimed client and server computers and wherein servers are disposed at the first, second and third locations and a client computer is used by the user (WWW-Abstract of Graber).

Per dependent claim 50; Graber further discloses wherein the network is the INTERNET (WWW-Abstract)

Per dependent claim 51; Graber further discloses claimed hypertext link (col. 10, lines 13-25).

Per dependent claim 52-53; Graber further discloses claimed network addresses, and URLs (*i.e.*, current URL, col 3, lines 27-32 et seq.).

Per dependent claim 54, claimed "domain names", are implicit in Graber, and thus in Graber et al, because the servers are located anywhere on the INTERNET, and claimed multiple domain names were thus *implicit* in the recitation of the INTERNET and URLs as described.

Per dependent claim 55 and 56; Graber lacks a complete description of customizing the products and services to be displayed, although it is implied by the customization shown in FIG. 3. It is also suggested by col. 10, lines 25-37. Nee, on the other hand, demonstrates customized catalogues for corporate incentive programs. It would have been obvious to *PHOSITA* at the time of the invention to combine the customized catalogue of Nee with the hyperlink referring program of Graber, in order to provided customized catalogues for specific corporations as incentives to employees as was known in the art, and to thus automate this process and provide more effective catalogue distribution. Per in accordance with "stored requirements" this would have

been implicit in Nee's customized catalogues, because it would have been necessary to store the requirements for a given company. Therefore the method and motivation for combination are identical as set forth, *supra*.

Claims 57-66 recite limitations that are substantially disclosed in claims 48-56, and are similarly rejected.

Response to Arguments

5. Applicant's arguments filed July 7, 2003 have been fully considered but they are not persuasive.

On page 6, in the first paragraph, Applicant explains that the IDS submitted is to formally cite the prior art that were introduced in the parent application. The statement is acknowledged with appreciation.

On the same page of the argument, Applicant argues the substance of the rejections under the prior art combination that includes Graber, Nee and Coddington references. Specifically, with respect to the teaching of Coddington, Applicant argues:

Coddington similarly fails to teach the claimed invention. Coddington teaches nothing more than the fact that a web page can have two different brands on it. There is nothing whatsoever in Coddington – or Graber or Nee for that matter – that teaches storing a plurality of brands and then, after a request is received, generating a page displaying the brand of the referrer, the brand of the destination, and the products and services of the destination. This provides many advantages, including allowing a relatively small company to obtain the benefit of the track record and reputation of many larger companies by maximizing the value of the known brand, and larger companies by maximizing the value of the known brand, and doing so in a manner such that web pages can be generated automatically as needed, without having a separate prestored page for every co-brand relationship. These steps are completely missing from all of these references, let alone Coddington. Indeed, applicant has added another set of claims which focuses on these steps of the invention and omits transmitting tracking information.

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Examiner disagrees with the arguments. Before addressing each argument, it is first noted that Applicant concedes that Coddington does provide a “co-branded” web page, i.e., that the web page provided by more than one “brands.” Applicant then argues that Coddington does not disclose “storing a plurality of brands.” This argument is not persuasive. Although Coddington may not explicitly disclose the storage, it is inherently shown, as it was by definition in the computer art that any content presented on displays (in this case in a web page) must be stored in some form of memory. Secondly, Applicant asserts that Coddington does not disclose “generating a page displaying the brand of the referrer, the brand of the destination, and the products and services of the destination.” This again is not persuasive. As explained in the rejection above, Coddington explicitly states that WhoWhere? Inc. provides the internet directory service (in Abstract, line 1, “...the largest Internet Directory...”). Therefore, since one of the “Co-brands” is WhoWhere? -and the other is one of “Swichboard, BigBook, American Business Information (ABI), and Quote.com (see Abstract), Coddington clearly teaches that the service of one of the destination includes the product or service being provided. Coddington also teaches the concept of “benefit of the track record and reputation of many larger companies by maximizing the value of the known brand” – since “Quote.com”, “BigBook”, etc., were very well known brands, and Coddington teaches that partnering with them in “co-branding” to reach out to more customers.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Hong whose telephone number is (703) 308-5465. The examiner can normally be reached on Monday-Friday from 8:00 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached on (703) 308-5186.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

After-final (703) 746-7238

Official (703) 746-7239

Non-Official/Draft (703) 746-7240

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



Stephen Hong

Primary Examiner

October 4, 2003



Substitute for form 1449/PTO		Complete if Known			
		Application Number	09/271,675		
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)		Filing Date	March 18, 1999		
		First Named Inventor	William J. Tobin		
		Art Unit	2178		
		Examiner Name	Stephen S. Hong		
Sheet	1	of	1	Attorney Docket Number	TOBINB 3.0-001 CIP

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
✓	AA	US-5,576,951	11-19-1996	Lockwood	
	AB	US-5,649,186	07-15-1997	Ferguson	
	AC	US-5,706,434	01-06-1998	Kremen, et al.	
	AD	US-5,710,887	01-20-1998	Chelliah, et al.	
	AE	US-5,839,117	11-17-1998	Cameron, et al.	
	AF	US-5,852,809	12-22-1998	Abel, et al.	
	AG	US-5,855,008	12-29-1998	Goldhaber, et al.	
	AH	US-5,864,822	01-26-1999	Baker, III	
	AI	US-5,870,718	02-09-1999	Spector	
	AJ	US-5,890,175	03-30-1999	Wong, et al.	
	AK	US-5,897,622	04-27-1999	Blinn, et al.	
	AL	US-5,907,830	05-25-1999	Engel, et al.	
	AM	US-5,918,214	06-29-1999	Perkowski	
	AN	US-5,933,811	08-03-1999	Angles et al.	
	AO	US-6,009,413	12-28-1999	Webber, et al.	
	AP	US-6,029,142	02-22-2000	Hill	
✓	AQ	US-6,249,291	06-19-2001	Popp, et al.	

RECEIVED

JUL 09 2003

Technology Center 2100

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ -Number-Kind Code ⁵ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the application number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
✓	CA	ELIZABETH CASTRO, Visual Quickstart Guide: HTML for the World Wide Web, AT&T Library No. 005.754 C355h, 1996	
✓	CB	KENNY CHU and FRANCIS CHIN, HTML Publishing on the Internet, AT&T Library No. 005.75 C559h, 1996	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.
436652_1.DOC

Examiner Signature		Date Considered	10/4/03
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Compensating Recruits ■

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SEPTEMBER 1994
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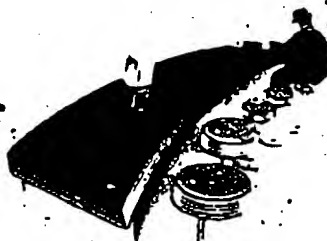


and very well-connected;



they don't crumble under pressure and

are always on top of



their markets;

they have a prescription for success and



their hearts are



in the right place.

Who are they? See page 77



Sales & Marketing MANAGEMENT

SEPTEMBER 1994 ■ FOUNDED 1918

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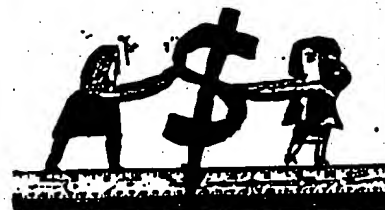
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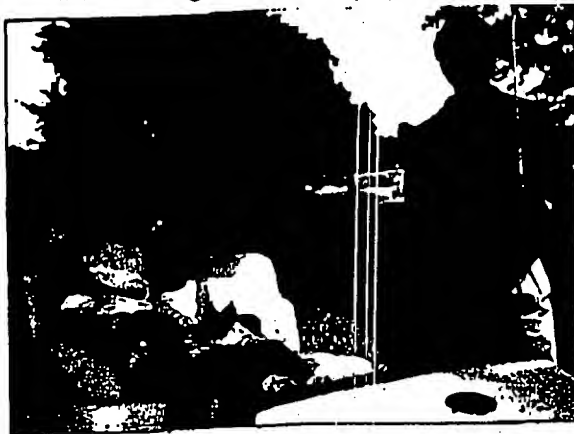
The King of Swing

A few of the editors at *Sales & Marketing Management* talk a pretty good game of golf. Problem is, we don't play a very good game. But while visiting our office last spring, Barry Farber heard our golf babble—and, like the good salesman he is, his ears perked.

"Hey Kings," Barry said to us (he calls everyone "King," by the way), "sounds like you guys sure know how to hit 'em. Love to play golf with you some time. Don't get to play much myself. My scores prove it. Still, anytime you want to play, let's do it." We smelled a pigeon.

So when Barry called the next day and offered to host us for a round of golf, we quickly accepted. A few days later, on the public links of Passaic, New Jersey, we found out just how good a salesman Barry Farber really is.

At the first tee, Barry waited as the three editors took their opening drives. One sliced left, another shanked right, and the third nearly blind-ended a golfer on the fourth fairway. Then Barry stepped to the tee and—kaboom. Long and fast and straight and...we were in trouble.



A Winning Foursome: Barry Farber with his wife, Allison, and children Jordan and Hallie.

"Hard-driving" sums up Barry Farber, and beginning this month he'll bring his fast-paced philosophy to our *Sales Force Management* column. A sales trainer based in Florham Park, New Jersey, Farber works with such companies as AT&T, Schering-Plough, and Minolta. Before going out on his own, he spent 10 years in the office-product business, selling and managing for Monroe, Sharp, and Ricoh. Much earlier, as an 11-year-old lizard freak,

he started a reptile museum in his basement—and charged visitors a nickel.

What sales philosophies will he share with *S&MM* readers? "The top managers are out there in the field with their reps, spending time with them and not evaluating them based on call reports," Farber says. "They also exude an enthusiasm that reps can respond to. They have to be passionate."

Farber's top tip: never stop working hard. "The more activity I'm involved in, the more prospecting I do, the more business I can walk away from if I don't like the way the customer does business."

Obviously, Barry likes to keep busy. In addition to his training work, he is the producer of a six-tape selling series called *State of the Art Selling*, the author of *Breakthrough Selling*, and currently he is working on five more books. He is also trying to keep up with his expanding family. In May, Barry's wife, Allison, gave birth to Jordan, who joins his three-year-old sister Hallie.

With so much activity, will Barry have time to work on his chipping and putting—the parts of his game that cost him first place in the *S&MM*/Farber Invitational? "I don't know," he says, "but how are you guys at basketball?"

Charles Butler

Editor

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PART TWO

Greetings for All Seasons

BY SHANNON NEE

gift? Although gifts tailored to the interests of clients and prospects may be real attention-grabbers, most managers and ethicists agree that giving standard, useful items is a more trouble-free approach to the holidays. This type of gift can be used by almost anyone, is usually inexpensive, and reminds the customer of the most important thing—your company.

Mark Sutherland, vice president of sales and marketing for Carolina Ribbon Corporation in Greensboro, North Carolina, agrees. He says the general holiday gifts he gives, like portfolios and umbrellas bearing the company logo, have two purposes—they serve the customer, and offer "absolutely perfect PR" for his business. "The logo reminds them that it's the Carolina Ribbon Corporation thanking them, and by giving a more general gift, it's something that everybody can use," Sutherland says.

Sieckman says she also prefers general gifts. "The safety zone appears to be on the side of personalized business items, or items that can be shared with other employees," she says. However, she suggests a different approach than most: "With regard to business items, clients appear to be more receptive to monogrammed gifts that are imprinted with their own name or company logo. Although most will say that a binder or calculator that displays your company name will remind them of you, the reverse may be true—if you personalize an item with someone's name, they will probably remember you even more. Research will support that people love to see their names in print."

When done right, gift giving can be more than a thank you—it can pave the way for successful business relations in the future. Sieckman and other managers agree, citing grateful phone calls from customers, thank-you letters, and improved relations with customers and prospects. She says, "Giving has, on many occasions, solidified my relationship with the client's secretary and team."

For managers like Sieckman, experience has shown that playing Santa—in moderation—is better than being a Grinch.

As a business gift buyer, you can easily stay on the safe side of the line that separates goodwill from acts of bribery. Just run with the gift-giving pack. Manufacturers and other suppliers offer such a reliable stock of proper merchandise, and so many ways to appropriately present it, that the intentions of your gesture need never be called into question.

Stick with the traditional categories of gift merchandise. Some, such as clocks and crystal, have been exchanged in business and industry for a century or more. There are a wealth of gift options that will make a lasting impression on recipients without breaking the company bank.

Many of these gifts are appropriate for every person on your list: major and minor customers, prospects,

salespeople, fellow managers, support personnel. The fact that most of the gifts are also "gender neutral," or at least appeal equally to men and women, adds to their value.

*Whether
you're in the
holiday spirit
or just have
the urge to say
thanks, here's
a guide to
picking the
right gift for a
favorite
customer or
salesperson.*

Gift giving is an art. That means it requires an innate sense of timing, intuition, and grace. Gift giving is also a personal gesture. With business gifts, however, that gesture reflects on your company as well as on you. Don't just slip in your business card, enclose a handwritten gift card. Don't just casually hand over a bumped-around package to a prospect, present any gift from your company with style, nicely wrapped.

Substance and Style

Presidents, vice presidents, general managers, and other top brass make most of the business-gift buying decisions, both to make

Gift Giving

SELECTING THE RIGHT ITEM

sure the company is well represented and to save money. Standard retail price-per-unit expenditures range from \$25 to \$150. At the lower end are gifts to be distributed by junior managers and executives; at the higher end, gifts from senior personnel.

With rare exceptions, these retail "price points" are always discounted for corporate accounts, though sometimes a minimum or maximum number of purchases have to be made before the discount kicks in. To take advantage of price breaks, most companies buy gifts direct from manufacturers, at least part of the time, which can cut retail prices by 40 to 75 percent.

Other buying channels that also offer some degree of discount include incentive reps and advertising specialty distributors, mail-order companies, wholesalers, distributors, incentive companies, and retail stores.

To save time and energy, most com-

panies buy in quantity. If you have a short gift list or enough time, however, you might save money—and make a better impression—by researching individual tastes and interests. A golfer might very well appreciate a \$50 cardigan more than a \$100 office decoration.

The busiest time of year for business gift-giving is during the Christmas holidays, so orders should be placed in September to avoid rushes and errors. Lead times as short as two weeks are common on other occasions—conventions, trade shows, birthdays, company anniversaries, sales activities—since they are specific to industries and individuals. Of course, if you're

ordering custom-molded platters or hundreds of custom-made shirts, turn-around might take up to two months, depending on the supplier.

But it could also take much less time because many suppliers stake their reputation, in part, on their speedy service.

Most suppliers to the business gift industry service their customers through the special markets, incentive, or corporate accounts department. Some even have

dedicated corporate gift departments or field salespeople who represent their product line alone.

Some special services to inquire about:

■ no-commitment policy; no min-



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- minimum or maximum purchase required;
- certificates good toward a plateau of gifts;
- gift boxing and wrapping, custom ribbons;
- custom giftware molding and designs.

Customizing—not a custom design, but your logo or other imprint added to a stock item—is an important part of gift giving. Putting your company imprint on a gift marks it as “all business” and completely above board. For prospects or other recipients you want to prod into remembering you, customizing keeps your name out there and prominent, as long as you give them something they’ll use and see regularly.

On the other hand, customizing may not be appropriate for gifts to top customers or other VIPs, because it could be perceived as inappropriately promotional, given the nature of the business relationship. If you doubt the wis-



Casual jackets, such as this warm and rugged style from Eddie Bauer, are much-appreciated apparel gifts.

dom of placing a company imprint in plain sight, there are ways to get around it by putting it on the bottom, on an inside cover, or on the back.

There are several ways to customize business gifts:

- Apparel manufacturers, or large re-

tailers with corporate account departments, can supply specially monogrammed or even custom-designed garments.

- Most publishers of nonfiction titles have business divisions for volume purchases; some can even customize the covers or edit the contents of gift books, usually softcover editions.

■ Watches are more versatile than clocks for customizing, their faces or casebacks taking medallion applications, silkscreening, or engraving, but clock manufacturers can customize a dial, face, base, case, or even pendulum, as well as a brass plate.

■ One of the most pleasing aspects of fine giftware is that it lends itself beautifully to customization. What is more traditional than an engraved crystal bowl, or a silver letter opener etched with initials?

- Gift certificates can be imprinted

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Gift Giving

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with names and messages to salute the occasion. Many retailers and mail-order merchants can partially or fully customize a catalogue—from the cover to the merchandise selection—for a corporate client.

■ For a fine writing instrument, keep customization low-key—perhaps only a subtle mark on the cap of the pen. Pen sets, as well as presentation cases, can be more boldly customized.

Across the Spectrum

The following gift selections are perennial favorites with corporate buyers because of the classy impression they make (that oh-so-important "perceived value") at moderate prices. They are also items that can be easily customized with a corporate imprint or personalized with a recipient's name or initials.

Apparel. This is one of the best choices for recognizing team spirit, for thanking salespeople or reps who hit their mark in a sales campaign. Apparel is also a standard gift for incentive winners—a collared pull-over for the golf course, for instance, or an oversized t-shirt for the beach. Using polo shirts as an example, the popular look is heavy, 100-percent cotton in muted colors; the average manufacturer price, about \$15, or upwards of \$24 for boxy "executive" cuts or special styles.

Ladies' work and weekend wear is another growing market, with a number of retailers and mail-order companies tapping the corporate buyer. On that note, if you want to offer recipients individual choice, give apparel gift certificates that can be redeemed in-store, through a catalogue, or either.

Books and References. Under this heading falls anything from a motivational audiotape series, to a national bestseller on a shark-infested corporation (such as *The Force*, by David

Dorsey), to sales and management software. Also in this category are desk diaries, usually embossed with a logo to remind the recipient of the giver every day.

Other examples: A road atlas from a major publisher can be customized and distributed to salespeople who cover a lot of overland territory. For customers with reception areas, consider coffee-table books or easy-to-take trivia subjects (such as *Life's Little Instruction Book*).

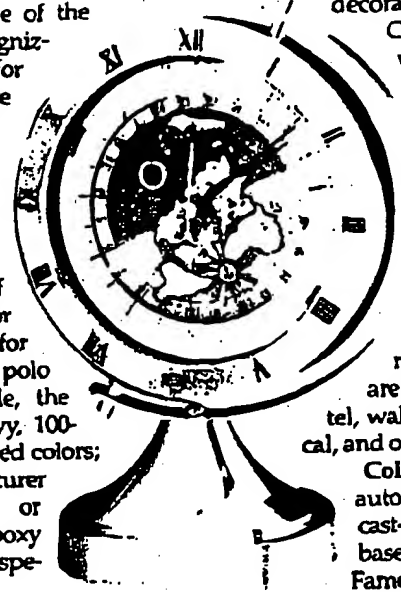
Clocks and Watches. Time is a precious resource for a businessperson, and the gift of a timepiece is a respected way to acknowledge that. While wrist and pocket watches are sometimes given as gifts, frequently to commemorate an occasion, clocks are a more traditional business gift because of their gender neutrality and decorative use in the office.

Clocks are available in a wide range of styles—from high-tech metal models with luminescent digital readouts to mantel clocks with Roman numerals made of softly burnished woods. Desktop is the most popular design, for obvious reasons, but gift clocks are also available in mantel, wall, travel, pen set, musical, and other styles.

Collectibles. Sleek model automobiles and planes, cast-iron novelty banks, and baseballs signed by Hall of Famers are a few of the fun and decorative collectible items available as gifts. Special-interest catalogue

companies and other specialty merchants are the source to tap for these unusual goods that people can't keep their hands off of: gifts that beg to be displayed, discussed, and enjoyed.

When it comes to trophy value, that quality that makes people want to show off a gift, it's hard to match licensed sports products, such as those signed baseballs—or footballs, or basketballs, or an embroidered silk racing jacket. The dual symbolism of person-



Seiko's global take on a desk clock, a classic choice.

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al glory and teamwork that sports items convey hits the right note with salespeople and other corporate players, who are out there competing in the field of success.

Electronics. The vast majority of Americans are thoroughly electronically inclined by now, both at home and at the office. While there is a vast

array of larger electronic gifts, their higher prices place them out of the routine gift-giving range.

More suitable are the smaller, "personal" electronics—the palm-of-the-hand devices that simplify life for people on the go who think



Time and data management is a snap with this palm-sized organizer from Panasonic.

months ahead. Gifts for them range from voice-activated daily planners to automatic check writers to cellular phones, and there's always something new each year to catch a technophile's fancy.

Fine Giftware. There are few categories more traditional in business than fine giftware, once known as "remembrances and engravables," which says it all. The term is a big umbrella: It covers bowls, desk sets, frames, ornaments, glassware, tableware, flatware, and more, and includes items which are typically made of crystal, china, and silver.

Continuity programs, a specialty in fine giftware, are great ways to settle the matter of what to give from year to year. People look forward to watching a special collection grow. For instance, someone who receives a silver desk frame one year enjoys receiving a matching silver catchall the next, and so on.

Gift Certificates and Catalogues. When you're not sure that one gift item will please everyone in a large group of people, consider giving gift certificates. They allow the recipient a great deal of personal choice and they are easy to purchase and administer.

For business gifts, most certificates are purchased through the special markets divisions of department stores, specialty retailers, mail-order catalogue companies, or mail-order direct merchants. The range of gifts, of course, is limited only by the supplier you work with—and there are many suppliers out there.

Gourmet Foods. It's hard to go wrong with something delicious. Steaks, cakes, fruit baskets, nuts—the range of gourmet food items available to the corporate market makes this one

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of the most dependable categories of all. Gourmet food is easy to order and easy to send, with most of the leading companies providing speedy delivery. Most also offer gift certificates with catalogues as another gift option.

For companies that don't allow employees to accept personal gifts, a large box of goodies is one way to get

around the rule, since everyone can partake. On the other hand, a delightful gift for a special person on your list would be enrollment in one of the monthly clubs that send a new food, dessert, or fruit selection every 30 days.

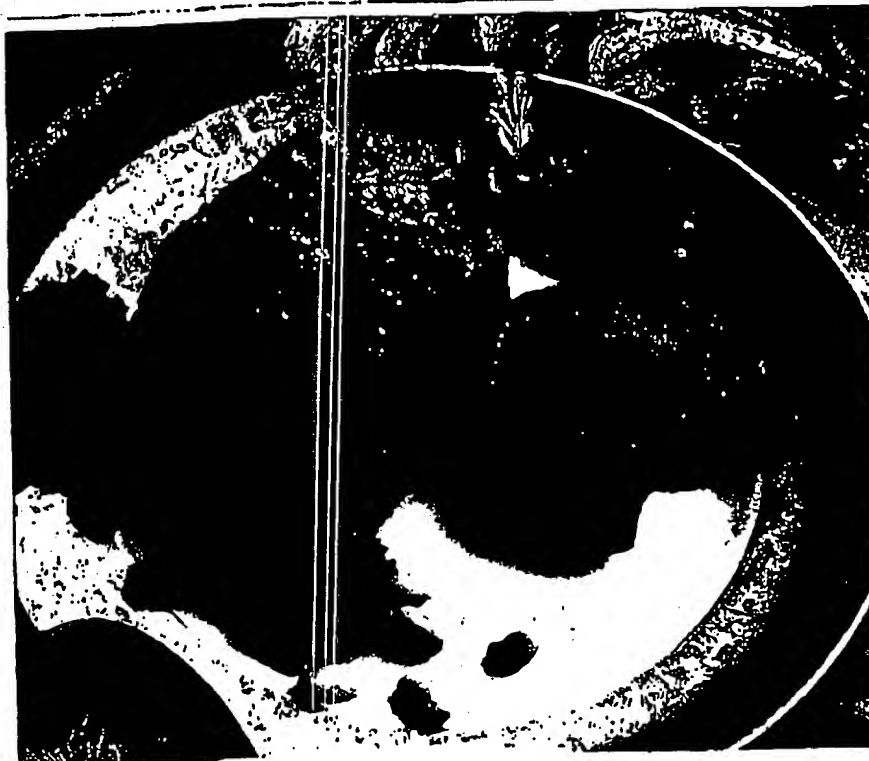
One caveat: Don't send perishables unless you know for certain that someone will be there to receive them.

This is an especially important reminder around the Christmas holidays, when so many offices are closed and people are away from home.

Leather Goods and Luggage. Business takes on a certain elegance when excellent leather goods are used. Briefcases, portfolios, desk diaries, daily organizers, even key fobs and business card cases, are all appealing gifts. If you want to send a stylish impression of your company into the field, give leather accessories to your own people who are out there meeting important contacts.

While there is beautiful luggage made of leather, most luggage given as business gifts is on the smaller side—such as a rolling carry-on or garment bag—and made of tough synthetic fabrics for durability. An appreciative audience would be field salespeople, who know better than anyone the rigors of frequent travel.

Writing Instruments. This category includes ballpoint pens, fountain



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Bending the Rules

Some companies forbid any exchange of personal gifts and you must respect their rule (or let yourself in for a polite rejection letter—or some not-so-polite trouble). But if you're determined to express your goodwill or thanks to a customer who works for such a company, you might be able to bend the rule by giving a gift to a group; say, the customer's support staff or department.

Group gifts can be in the form of a fruit basket, holiday cake or cookie assortment, a painting or sculpture, a donation to charity in the group's name, a sheet of season tickets—anything that everyone can enjoy or appreciate. Your message of goodwill or thanks will still get across, without any of the ethical watchdog suspicions aroused by personal presents.

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pens, and mechanical pencils. These are classic, time-tested gifts, given for more than a century to show respect and appreciation.

At the higher end of the price scale are individual instruments. Carefully choose a superior ballpoint or fountain pen to give as a gift. Consider first the person's wardrobe, his or her office, and

of a child's graduation, a favorite team winning a championship, even the long-awaited delivery of new office furniture. Then the modest but very thoughtful surprise treat of a box of chocolates, for example, or a box of fine cigars, will go far in conveying your goodwill and making a good impression.

- Do make note of a few trends: ani-

mal figurines designed in clear or colored crystal, especially bulls, roosters, dolphins, cats (wild and domestic), and fish; and heirloom quality giftware and decorative pieces that complement an old-fashioned sort of walnut-dining-table-with-lace-tablecloth style of interior decoration.

- Do send cut flower arrangement or



Harry and David's basket of snacks and luscious fruits—perfect for an office gift.

decorations. A fine pen is a personal fashion accessory much like a watch or piece of jewelry. Giveaways aside, at the lower end of the price scale are sets comprised of either a ballpoint and fountain pen, or a pen and mechanical pencil.

Do's and Don'ts

So, you've written up your list and it's time to decide what to give everyone. You have all the aforementioned categories to choose from—more than enough merchandise ideas—and you're ready to make your buying decisions. Wait. There is still a finer point to put on what items you select, and how you choose to present them. Here are a few points to consider, both trends and classic tips, which can sharpen your good sense and warn you about traps.

- Do take advantage of unusual occasions to give gifts to valued customers or employees. It could be on the occasion



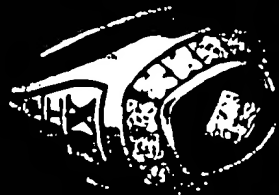
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Gift Giving

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flowering plants to both men and women. Flowers are almost foolproof gifts, being both very pleasant to receive and appropriately priced. Just be sure the recipient is at home or in his or her office to receive them, since they need immediate care, whether cut or potted.

- Don't give gifts of wine, liquor, decanter and stemware sets, etc., unless you know the recipient drinks, or at least serves, alcohol.

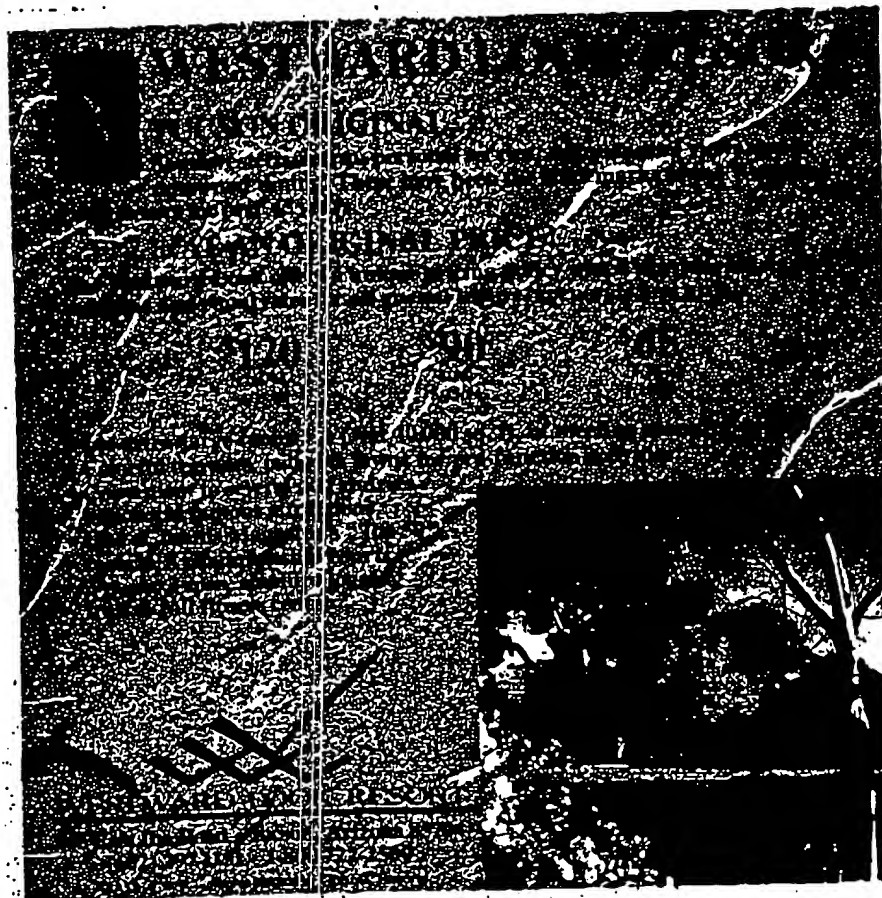
- Don't give very "self"-oriented or goal-oriented merchandise that may leave the recipient wondering if you think her or she needs some kind of improvement.



Lovely and tasteful, crystal giftware includes these contemporary collectibles from Waterford.

- Don't send gifts of insultingly different value to the same floor of offices or a department, where you could risk injuring someone's feelings or stir up ill will towards you. By the same token, don't try to hold on to gifts you don't want for "recycling." You might wind up sending it back to the same person: It has happened.

- Don't customize, on the other hand, a very old, rare, or any other irreplaceable piece. (This does not include engraving an expensive piece of crystal or silver, since they are not one-of-a-kind.) In the situations where this type of gift would be appropriate, typically a retirement, golden anniversary, or in honor of a visiting dignitary, the gift should be given as a gift. Period. This is no time for promotion.



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